HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION No.394 of 1998

Dated 19th December 2006

Between:

Duvuru Sateesh,
Kuppa Gunta Kandiriga village,
Pellakuru Mandal,
Nellore District.

……Petitioner.

And

The Revenue Divisional Officer,
Gudur, Nellore District and others.

……..Respondents.

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O R D E R:

1. Heard the learned counsel on record.

2. The writ petition is filed for a Writ of Mandamus declaring the order of the 1st respondent passed vide Rc.B2.3726/97, dated

30-11-1997 confirming the order passed by the 2nd respondent in Rc.B.100/97 dated 29-3-1997 as illegal, arbitrary and in violation of principles of natural justice in depriving the proper opportunity and violative of Articles 14 and 21 of the Constitution of India and consequently to direct the respondents to forebear from interfering with possession and enjoyment of the land admeasuring Ac.2-72 cents situated in S.No.216-2 of Palachuru village of Pallukur Mandal of Nellore District and to pass such other suitable orders.

3. It is stated that the petitioner is a landless poor person and his father purchased the land in S.No.216-2 of Palachuru village of Pellakuru Mandal, Chittoor District, admeasuring Ac.2-72 cents in his name, from the 3rd respondent under sale agreement dated

20-6-1975. Ever since the purchase of the land, it is stated that the petitioner has been in possession of the land. It is also stated that his father had no other land than the said land purchased from the 3rd respondent in good faith and thus he is bonafide purchaser. It is also stated that the 2nd respondent issued show cause notice dated 17-2-1997 and several factual details are narrated and some political rivalry also had been averred. It is also stated that a detailed explanation was submitted to the 2nd respondent on 25-3-1997 in reply to the show cause notice and the 2nd respondent had fixed a date of personal hearing on 29-3-1997 for enquiry and several aspects also had been specified. But the specific stand taken by the petitioner is that the 2nd respondent had passed an award without giving reasonable opportunity of adducing further evidence. It is stated that an appeal was preferred to the 1st respondent and the 1st respondent without appreciating all the aspects involved in the matter had confirmed the same. Hence the present Writ Petition is filed.

4. In the counter affidavit filed by the respondents 1 and 2, specific stand is taken that he is not a landless poor person and not at all eligible for grant of any

Government land under assignment rules.

He is a member of the joint family of Sri D. Sivarami Reddy.

The petitioner is the only son to his father. The petitioner's family possessed an extent of Ac.12.91 cents patta dry land which was purchased during the year 1990 and hence the petitioner's family cannot be called as a landless poor family, even at the time of coming into possession of the present land. The petitioner has further purchased the assigned land willfully in the name of his minor son and it shows that he wants to escape from law as he was not eligible to get Government land. Hence, it cannot be said that it is a bonafide purchase as the purchase of assigned land is not permissible.

5. It is also stated in Para No.3 of the counter affidavit that the 3rd respondent who belongs to Backward Class Community is ignorant of law. He was afraid of the landed and upper caste people. As in several cases, in the Mandal and District, the assignment lands are being restored to the original assignees. The 3rd respondent oftenly, approached the Government and represented for restoration of the assigned land to him. It is not true to say that the 3rd respondent had suppressed the fact of sale

agreement executed by him, delivery of possession and receipt of the valid consideration for the sale of the said land as alleged by the petitioner. During enquiry, the 3rd respondent has stated that no sale agreement was executed for the said land and the valid consideration of the land was not paid to him.

6. Further, specific stand is taken that it is not correct to say that the 2nd respondent had not given reasonable opportunity to the petitioner for adducing evidence and the 2nd respondent passed an order dated 29-3-1997 restoring the same to the 3rd respondent. Further, it is specifically averred in Para 4 of the counter affidavit that the petitioner has been given ample opportunity to represent his case and to adduce evidences, if any. A notice under Rule 3 of Assigned Land (POT) Rules, 1977 had been served to him on 11-3-1997 directing to show cause as to why he should not be summarily evicted from the extent of Ac.2.72 cents in Survey Number 216/2 of Palachur Village as he found to have the said lands in contravention of the provisions of sub-Section (2) of Section 3 of A.P. Assigned Lands (POT) Act, 1977. For which he filed his explanation on 25-3-1997. In his explanation to the said notice, he requested for a date to

be fixed for hearing him personally. Accordingly he was heard personally on 29-3-1997. He argued both in his written explanation and personal hearing that his father purchased the extent of Ac.2.72 in Survey Number 216/2 of Palachur village from Sri S. Penchalaiah in favour of the petitioner through an un-registered document in the year 1975. During and after enquiry he never produced document before Mandal Revenue Officer, Pellakur, in support of the alleged purchase. Hence, it is evident that the 2nd respondent had given sufficient opportunity to the petitioner and then only passed orders.

7. Further, it is specifically stated that the 1st respondent had also given opportunity to the petitioner to represent his case on 22-9-1997 and the matter was adjourned from time to time and the case was finally posted for haring on 24-11-1997. The petitioner's father and his Advocate attended the Court. But the petitioner had not attended the Court.

8. Further, specific stand is taken that the Mandal Revenue Officer had properly enquired into the matter in detail and adjudicated the same. It is also stated that the original assignee Sri S.Penchalaiah had denied the alleged sale and had stated that he never sold the land to

the petitioner or anybody for valuable consideration. Several other factual details are narrated in Paras 9, 10 and 11 of the counter affidavit.

9. On a careful scrutiny of the order made by the 2nd respondent, the Mandal Revenue Officer, Pellakur Mandal and also the appellate authority-the Revenue Divisional Officer, Gudur, Nellore District, this Court is of the considered opinion that the stand taken by the petitioner that no reasonable opportunity had been given, cannot be accepted. In fact, the appellate authority made an order in detail and reasons also had been recorded. It is also needless to say that the petitioner is having an effective alternative remedy, but however, the petitioner failed to avail the same. Be that as it may, even on facts on careful scrutiny of the orders of the 2nd respondent and also the 1st respondent, inasmuch as reasons in detail had been recorded, this Court is of the considered opinion that this is not a fit matter to be interfered with while exercising jurisdiction under Article 226 of the Constitution of India.

10. The Writ Petition is devoid of merits and accordingly the same shall stand dismissed. No order as to costs.

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(P.S. NARAYANA, J)

Dated 19th December 2006
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